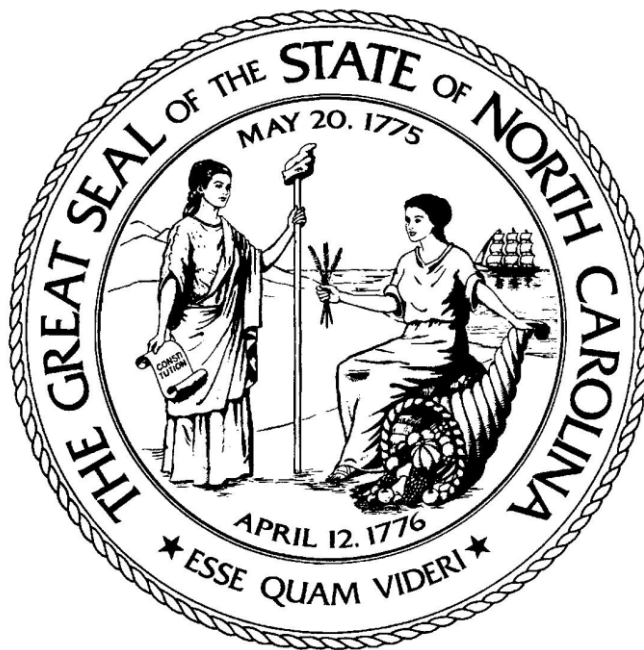


**2011-2012
REVENUE LAWS STUDY
COMMITTEE**



**REPORT TO THE 2013-2014
GENERAL ASSEMBLY OF NORTH CAROLINA
2013 SESSION**

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* All of the meeting handouts, including Power Point presentations, may be accessed online in PDF format at the Revenue Laws Study Committee website: <http://www.ncleg.net/committees/revenuelaws>



REVENUE LAWS STUDY COMMITTEE
State Legislative Building
Raleigh, North Carolina 27601

Senator Bob Rucho, Co-Chair

Representative Julia C. Howard, Co-Chair

January 8, 2013

TO THE MEMBERS OF THE 2012 GENERAL ASSEMBLY:

The Revenue Laws Study Committee submits to you for your consideration its report pursuant to G.S. 120-70.106.

Respectfully Submitted,

Sen. Bob Rucho, Co-Chair

Rep. Julia Howard, Co-Chair

2011-2012

REVENUE LAWS STUDY COMMITTEE

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Rep. Julia Howard, Co-Chair

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Ryan Blackledge, Staff Attorney

Barry Boardman, Economist

Judy Collier, Research Assistant

Dan Ettefagh, Staff Attorney

Heather Fennell, Staff Attorney

Trina Griffin, Staff Attorney

Sandra Johnson, Fiscal Analyst

Greg Roney, Staff Attorney

Brian Slivka, Fiscal Analyst

Jonathan Tart, Fiscal Analyst

PREFACE

The Revenue Laws Study Committee is established in Article 12L of Chapter 120 of the General Statutes to serve as a permanent legislative commission to review issues relating to taxation and finance. Before it was created as a permanent legislative commission in 1997, the Revenue Laws Study Committee was a subcommittee of the Legislative Research Commission. It has studied the revenue laws every year since 1977. The Committee consists of twenty members, ten appointed by the President Pro Tempore of the Senate and ten appointed by the Speaker of the House of Representatives.¹ Committee members may be legislators or citizens. The co-chairs for 2011-2012 are Senator Bob Rucho and Representative Julia Howard.

In its study of the revenue laws, G.S. 120-70.106 gives the Committee a very broad scope, stating that the Committee "may review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable." A copy of Article 12L of Chapter 120 of the General Statutes is included in Appendix A.² A committee notebook containing the Committee minutes and all information presented to the Committee is filed in the Legislative Library and may also be accessed online at the Committee's website: <http://www.ncleg.net/committees/revenuelaws>.

¹ The Speaker of the House of Representatives appointed a ninth legislative member, a non-voting advisory member in 2007, and again in 2009. The General Assembly changed the membership from 16 members to 20 members in S.L. 2009-574, Section 51.1.

² The General Assembly established a permanent subcommittee under the Revenue Laws Study Committee to study and examine the property tax system in S.L. 2002-184, s. 8. However, subcommittee members were not appointed and the subcommittee did not function from 2004 through 2010. In S.L. 2011-266, s.1.15, the General Assembly repealed the subcommittee. The full Committee continues to review the property tax system and recommend changes to it.

COMMITTEE PROCEEDINGS

The 2012 General Assembly enacted the Revenue Laws Study Committee's five legislative proposals in whole or in part. Appendix B lists the Committee's recommendations to the 2012 General Assembly and the action it took on them. A document entitled **"2012 Finance Law Changes"** summarizes all of the tax legislation enacted in 2012. It is available in the Legislative Library located in the Legislative Office Building. It may also be viewed on the Legislative Library's website³ and the Revenue Laws Study Committee's website.⁴

The Revenue Laws Study Committee met four times after the adjournment of the Second Regular Session of the 2011-2012 biennium of the North Carolina General Assembly on July 3, 2012. Appendix C contains a copy of the Committee's agenda for each meeting. All of the materials distributed at the meetings may be viewed on the Committee's website. The Committee considered a limited number of issues this biennium, and it recommended two pieces of legislation. The Committee considers all proposed tax changes in light of general principles of tax policy and as part of an examination of the existing tax structure as a whole.

UNEMPLOYMENT FUND SOLVENCY & PROGRAM CHANGES

The Revenue Laws Study Committee discussed the State's unemployment insurance program (UI) during two meetings held November 8, 2012, and December 5, 2012. At the first meeting, the Committee considered policy options to address the State's approximate \$2.5 billion debt owed to the federal government for loans used to

³ <http://www.ncleg.net/LegLibrary> under 'Publications,' 'Tax and Finance Law Changes'

⁴ <http://www.ncleg.net/committees/revenuelaws>

pay past UI benefits. The State exhausted the State's UI reserve fund held by the US Treasury and began borrowing to pay UI benefits in February, 2009. The Committee heard testimony explaining recent administrative changes to enhance program integrity and strengthen re-employment efforts.

Under existing law, the debt will be repaid through increased payments by employers under the federal unemployment insurance tax. The mechanism that increases employers' payments is a reduction in tax credit allowed to offset federal UI tax. In 2011, employers paid additional federal UI tax (0.3% credit reduction). The credit against federal UI tax will decrease by 0.3% each year until the debt is repaid. On December 5th, the Committee considered the Legislative Proposal. The Legislative Proposal would increase the solvency of the State's unemployment insurance program by changing employers' contributions and claimants' benefits. Additionally, the Legislative Proposal streamlines the program focusing the program on the benefits for loss of work.

The Legislative Proposal increases the minimum employer contributions from 0% of taxable payroll to 0.06%. The maximum employer contribution is increased from 5.7% to 5.76% of taxable payroll. In addition to the increased State UI taxes, employers are paying increased federal UI taxes through the credit reduction mechanism that applies the additional federal UI tax payments to the State's UI account.

The Legislative Proposal would change the maximum duration of benefits to 20 weeks (individual claimant range 12-20 weeks) from 26 weeks (individual claimant range 13-26 weeks). The maximum duration of benefits is reduced by 1 week for every 0.5% decline in the total unemployment rate for the State. The reduction of the maximum duration would start when the unemployment rate falls below 9% triggering a 1 week reduction of the maximum duration to 19 weeks. The weekly benefit amount

would be calculated using the last 2 quarters of the claimant's wages.⁵ The maximum weekly benefit amount would be reduced to \$350 from \$535.⁶

The Legislative Proposal would also streamline the UI program by: paying benefits for discharge unless the claimant committed misconduct; allowing each claim for benefits to stand alone; requiring claimants to be able, available, and actively seeking work; and redefining suitable work based on the duration of unemployment. These programmatic changes continue the current administrative efforts to increase program integrity and focus on re-employment.

The benefit changes would become effective July 1, 2013. The new tax rates for employers would become effective January 1, 2014.

REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

The Revenue Laws Study Committee recommends Legislative Proposal #2, Revenue Laws Technical, Administrative, and Clarifying Changes. This proposal makes several technical and clarifying changes to the revenue laws and related statutes. The majority of the changes were recommendations of the Department of Revenue.

At the October 3, 2012 meeting, the Committee heard a presentation regarding several changes to the administration of tobacco taxes. These changes are intended to provide greater conformity in the administration of the different excise taxes, and to provide more guidance to the Department and greater clarity to taxpayers. After incorporating changes requested by stakeholders, these clarifying and administrative changes are also included in Legislative Proposal #2.

⁵ The current WBA is calculated based on the individual's high quarter.

⁶ The current maximum WBA is determined based on a formula that is calculated annually.

LEASEHOLD INTERESTS IN EXEMPT REAL PROPERTY

During the October 3 meeting, the Revenue Laws Study Committee heard a staff presentation on the taxation and valuation of leasehold interests in exempt real property. Section 2 of S.L. 2012-189 authorized the Committee to study leasehold interests in exempt real property and report to the 2013 Regular Session of the General Assembly.

North Carolina imposes a property tax on a leasehold interest in real property where the real property is exempt from property tax. The property tax on a leasehold interest in exempt real property applies when a unit of government leases property to a private business and when the payments under the lease are below the value of the interest in the real estate. County assessors value these leasehold interests as the difference between the fair market value of the leasehold interest and the rent paid under the lease. For example, if the private tenant is paying market rate for the exempt real property owned by a local government, then the leasehold interest has no value because similar leases can be obtained at the same price. If the tenant is paying a bargain rate under the lease, the leasehold interest has value because a similar lease would cost more.

The Local Government Division of the NC Department of Revenue provided testimony to the Committee on the method of valuation of leasehold interests in exempt real property. The Department of Revenue conducted a survey of counties and reported the data to the Committee. The Department of Revenue plans to include a presentation on the proper methodology for the tax in its educational programs for county tax assessors. The Committee also heard public comment from a taxpayer paying the tax.

COMMITTEE RECOMMENDATIONS AND LEGISLATIVE PROPOSALS

The Revenue Laws Study Committee makes the following two recommendations to the 2013 General Assembly. Each proposal is followed by an explanation and, if it has a fiscal impact, a fiscal memorandum, indicating any anticipated revenue gain or loss resulting from the proposal.

1. Unemployment Fund Solvency and Program Changes
2. Revenue Laws Technical, Clarifying, and Administrative Changes

LEGISLATIVE PROPOSAL #1

UNEMPLOYMENT FUND SOLVENCY & PROGRAM CHANGES

LEGISLATIVE PROPOSAL #1

A RECOMMENDATION OF THE REVENUE LAWS STUDY COMMITTEE
TO THE 2013 REGULAR SESSION OF THE 2013 GENERAL ASSEMBLY

**AN ACT TO ADDRESS THE UNEMPLOYMENT INSURANCE DEBT AND
TO FOCUS NORTH CAROLINA'S UNEMPLOYMENT INSURANCE
PROGRAM ON PUTTING CLAIMANTS BACK TO WORK.**

SHORT TITLE: UI Fund Solvency & Program Changes.

PRIMARY SPONSORS:

BRIEF OVERVIEW:

FISCAL IMPACT:

EFFECTIVE DATE: This proposal would become effective when it becomes law.

A copy of the proposed legislation and a bill analysis begin on the next page.

LEGISLATIVE PROPOSAL #2

**REVENUE LAWS TECHNICAL, CLARIFYING, AND
ADMINISTRATIVE CHANGES**

LEGISLATIVE PROPOSAL #2

A RECOMMENDATION OF THE REVENUE LAWS STUDY COMMITTEE
TO THE 2012 REGULAR SESSION OF THE 2011 GENERAL ASSEMBLY

AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

SHORT TITLE: Revenue Laws Technical, Clarifying, and Administrative Changes

PRIMARY SPONSORS:

BRIEF OVERVIEW: This Legislative Proposal would make technical, clarifying, and administrative changes to the revenue laws and related statutes, many of which were requested by the Department of Revenue.

FISCAL IMPACT:

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.

A copy of the proposed legislation, a bill analysis, and a fiscal analysis begin on the next page.

APPENDIX A

AUTHORIZING LEGISLATION ARTICLE 12L OF CHAPTER 120 OF THE GENERAL STATUTES

**ALL MATERIALS DISTRIBUTED AT MEETINGS MAY BE
VIEWED ON THE COMMITTEE'S WEBSITE:
<http://www.ncleg.net/committees/revenuelaws>**

ARTICLE 12L

Revenue Laws Study Committee

§ 120-70.105. Creation and membership of the Revenue Laws Study Committee.

(a) Membership. – The Revenue Laws Study Committee is established. The Committee consists of 20 members as follows:

- (1) Ten members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.
- (2) Ten members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (1997-483, s. 14.1; 1998-98, s. 39; 2009-574, s. 51.1.)

§ 120-70.106. Purpose and powers of Committee.

(a) The Revenue Laws Study Committee may:

- (1) Study the revenue laws of North Carolina and the administration of those laws.
- (2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.
- (3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.
- (4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Revenue Laws Study Committee must review the effect Article 42 of Chapter 66 of the General Statutes, as enacted by S.L. 2006-151, has on the issues listed in this section to determine if any changes to the law are needed:

- (1) Competition in video programming services.
- (2) The number of cable service subscribers, the price of cable service by service tier, and the technology used to deliver the service.
- (3) The deployment of broadband in the State.

The Committee must review the impact of this Article on these issues every two years and report its findings to the North Carolina General Assembly. The Committee must make its first report to the 2008 Session of the North Carolina General Assembly. (1997-483, s. 14.1; 2006-151, s. 21.)

§ 120-70.107. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Revenue Laws Study Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The Committee shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (1997-483, s. 14.1.)

APPENDIX B

DISPOSITION OF COMMITTEE'S RECOMMENDATIONS TO THE 2012 REGULAR SESSION OF THE 2011 GENERAL ASSEMBLY

**ALL MATERIALS DISTRIBUTED AT MEETINGS MAY BE
VIEWED ON THE COMMITTEE'S WEBSITE:
<http://www.ncleg.net/committees/revenuelaws>**

**DISPOSITION OF REVENUE LAWS STUDY COMMITTEE RECOMMENDATIONS
TO THE 2012 REGULAR SESSION OF THE 2011 GENERAL ASSEMBLY**

SHORT TITLE	SENATE SPONSORS	HOUSE SPONSORS	BILL #	FINAL STATUS*
Expedited Rule Making for Forced Combination	Rucho; Hartsell	Howard; Starnes	HB 1027 SB 824	Enacted* SL 2012-43, [SB 824]
Unemployment Insurance Changes	Rucho; Hartsell	Howard; Starnes	HB 1024 SB 828	Enacted* SL 2012-134, [SB 828]
Extend Tax Provisions	Rucho; Hartsell; Blue	Howard; Starnes	HB 1025 SB 827	Enacted* SL 2012-36, [HB 1025]
Appraisal Management Company Reported to Department of Revenue	Rucho; Hartsell	Howard; Starnes	HB 1028 SB 825	Enacted* SL 2012-65, [HB 1028]
Revenue Laws Technical, Clarifying, & Administrative Changes	Rucho; Hartsell	Howard; Starnes	HB 1026 SB 826	Enacted* SL 2012-79, [SB 826]

* Bills were modified prior to enactment.

APPENDIX C

MEETING AGENDAS

**ALL MATERIALS DISTRIBUTED AT MEETINGS MAY BE
VIEWED ON THE COMMITTEE'S WEBSITE:
<http://www.ncleg.net/committees/revenuelaws>**

REVENUE LAWS STUDY COMMITTEE AGENDA

Rep. Julia Howard

Sen. Bob Rucho

**Wednesday, October 3, 2012
Room 544, Legislative Office Building
9:30 a.m.**

- I. Welcome and Introductions**
- II. 2012 Finance Law Changes**
 - *Trina Griffin, Research Division*
- III. General Fund Revenue Outlook**
 - *Barry Boardman, Fiscal Research Division*
- IV. Department of Revenue Update : Compliance, Collections, & Appeals**
 - *David Hoyle, Secretary*
 - *Linda Millsaps, Chief Operating Officer*
- V. Administrative and Modernization Changes to the Excise Tax on Tobacco (Proposed Legislation)**
 - *Heather Fennell, Research Division*
 - *Al Milak, Excise Tax Division, Department of Revenue*
 - *Louise Butler, NC Wholesalers Association*
- VI. Overview of the Taxation and Valuation of Leasehold Interests in Exempt Real Property**
 - *Greg Roney, Research Division*
 - *Public Comment*
 - *David Baker, Local Government Division, Department of Revenue*
- VII. Adjournment**

**Next Meeting Date: Wednesday, November 7, 2012
in Room 544, LOB, at 9:30 a.m.**

REVENUE LAWS STUDY COMMITTEE AGENDA

Rep. Julia Howard

Sen. Bob Rucho

**Thursday, November 8, 2012
Room 544, Legislative Office Building
9:30 a.m.**

I. Approval of Minutes from October 3 Meeting

II. "It's Never the Best Time for NC Tax Reform"

- *Brent Lane, Director, UNC Center for Competitive Economies*

III. Unemployment Insurance Program

Overview of the Unemployment Insurance Trust Fund Issues and Policy Options

- *Cindy Avrette, Research Division*

UI Program Integrity, Workforce Development, and Administrative Changes related to the Merger of the Department of Commerce and the Employment Security Division

- *Dempsey Benton, Assistant Secretary, Division of Employment Security, Department of Commerce*

"North Carolina's Unemployment Insurance System: A Simulation and Policy Analysis", Final Report prepared for The NC Department of Commerce, DES, by the W.E. Upjohn Institute for Employment Research

- *Dr. Christopher J. O'Leary, Co-Principal Investigator, W.E. Upjohn Institute*
- *Dr. Richard Hobbie, Executive Director, National Association of State Workforce Agencies*

Comments

- *Alexandra Sirota, Director, Budget & Tax Center*
- *Gary Salamido, Vice President-Government Affairs, NC Chamber of Commerce*

IV. Adjournment

**Next Meeting Date: Wednesday, December 5, 2012
in Room 544, LOB, at 9:30 a.m.**

REVENUE LAWS STUDY COMMITTEE AGENDA

Rep. Julia Howard

Sen. Bob Rucho

**Wednesday, December 5, 2012
Room 544, Legislative Office Building
9:30 a.m.**

- I. Approval of Minutes from November 8, 2012, Meeting**
- II. Bill Draft: Unemployment Insurance Trust Fund Solvency & Program Changes**
 - **Trust Fund Solvency: Benefit Changes, Contribution Changes, and Fund Balance Changes**
Cindy Avrette, Research Division
 - **Simulation of UI Tax and Benefit Reforms**
Rodney Bizzell, Fiscal Research Division
 - **Considerations for Refinancing the Debt**
State Treasurer's Office
 - **Workforce Development Initiatives**
Aubrey Incorvaia, Fiscal Research Division
Roger Shackelford, Assistant Secretary, Division of Workforce Solutions, Department of Commerce
 - **UI Programmatic Changes**
Greg Roney, Research Division
 - **Comments from Interested Parties**
- III. Bill Draft: Revenue Laws Technical, Clarifying, and Administrative Changes**
Trina Griffin, Research Division
- IV. Adjournment**

**Next Meeting Date: Tuesday, January 8, 2013
in Room 544, LOB, at 9:30 a.m.**